

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1547 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RATILAL RANCHHODBHAI MUDETHIYA

Versus

ORIENTAL INSURANCE CO.LTD.

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Appearance:

MR MOHANBHAI DESAI for Petitioner

None present for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/12/98

ORAL JUDGEMENT

1. Yesterday, Shri C.C. Bhalja, AGP, was directed to assist this Court in this matter as it pertains to the payment of court fee by the claimants on the claim application filed by them before the Motor Accidents Claims Tribunal (Main), Banaskantha District, Palanpur but he is not present today in the Court.

2. Heard the learned counsel for the petitioner.

The petitioner filed a claim application in the Motor Accident Claims Tribunal (Main), Banaskantha District, Palanpur for compensation for the injury he received in a motor vehicular accident. He initially claimed an amount of Rs.35000/- as compensation but later he reduced it to Rs.25,000/- vide application Ex.17. Ultimately, learned Tribunal found that he is only entitled for an amount of Rs.5000/- as compensation and accordingly award has been passed. It appears from the record that the petitioner was permitted to sue as an indigent person and he moved an application that from the amount of compensation awarded to him after deducting Rs.350/- towards the court fee payable towards the awarded amount, balance amount of court fee i.e. Rs.1325/- which is deducted from his amount of compensation to be returned to him. This application came to be rejected under the order impugned in this civil revision application.

3. Learned counsel for the petitioner, relying on the provisions of Rule 212 of Gujarat Motor Vehicles Rules 1989 contended that the claimant who has succeeded in the claim application shall be liable to pay by way of fee an amount equal to the full fee leviable on the amount at which the claim is awarded by the Tribunal and not on the amount which has been claimed as compensation in the claim application.

4. I find sufficient merits in this contention of the learned counsel for the petitioner which is also clearly supported by Rule 212 of the Rules aforesaid. Rule 212 of the Rules aforesaid provides that an application for compensation under Rule 211, where a claim is for the amount not exceeding Rs.9999/- shall be accompanied by an amount of Rs.10/- provided that if the person making an application succeeds he shall be liable to pay by way of fee an amount equal to full fees leviable on the amount at which the claim is awarded by the Tribunal according to the scale as given therein. Maximum of the court fees is of Rs.15000/- only. So from the scheme of this rule it no more remains in doubt that where the claimant has been permitted to file the claim application as an indigent person then on success in the claim application, the court fee is leviable on the amount of the compensation awarded by the Tribunal and not on amount of compensation claimed. In case the order of the learned trial court is maintained then it will amount to result that in a case where though the amount of compensation as claimed is not awarded and much low amount has been awarded, the claimant has to pay substantial awarded amount as court fee. In Motor Vehicles Act, 1988 a provision is there for awarding

compensation for injury sustained by the claimant or for death of bread earner of family on the principle of no fault liability and in case the court fee is to be paid on the claim made and not on amount awarded it will work harshly to those class of persons. That is not the intention of the legislature that substantial amount should be taken off from the awarded amount of compensation as court fee. The amount awarded is relevant for levy of court fee and not the amount of compensation as claimed. The approach of the Tribunal is contrary to the rule 212 of the Rules, 1989. The provisions of the Act,, 1988 which relate to the grant of compensation for injury or death resulted in a motor vehicular accident have socio-economic object. From the scheme of the rule 212 of the Rules, 1989, which is a special statute, it is clearly borne out that the legislature intended to prescribe nominal or reasonable fee to be paid by the claimants in the matter of claims of compensations. From general provision of court fee and Suit Valuation Act, a deviation has been made in the Rules, 1989 and reason is very obvious, otherwise out of the amount of compensation good percentage thereof has to be paid by the claimants towards fees, court fees. So fee is leviable only on amount of compensation awarded and not on the amount of compensation claimed in the claim cases, under the Act, 1988.

5. In the result, this revision application succeeds and the same is allowed and the order of the Motor Accident Claims Tribunal (Main) Banaskantha District, Palanpur dated 24th July, 1997 is quashed and set aside and the application Ex.30 filed by the petitioner is allowed. It is hereby ordered that the Tribunal refund the amount of Rs.1325/- to the claimant-petitioner forthwith. No order as to costs.

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